IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

WP(C).No. 6018 of 2006(N)

OS.86/1995 of SUB COURT, HOSDRUG
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PETITIONER:

ABRAHAM PHILIP,
S/O.P.M.PHILIPOSE, CHEEMENI VILLAGE,
HOSDURG TALUK, KASARAGOD DISTRICT.

BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR

RESPONDENTS:
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1. MATHEW PHILIP,
S/O.P.M.PHILIPOSE, PUTHUPALLY VILLAGE,
KOTTAYAM DISTRICT.

2. TAHSILDAR,
HOSDURG, KASARAGOD DISTRICT.

ADDL. 3. THE DISTRICT COLLECTOR,
KASARGOD.
(ADDL. 3RD RESPONDENT IS IMPLEADED SUO MOTU BY JUDGMENT DT.12.07.07.)

R1 BY ADV. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR
R2 & ADDL.R3 BY ADV. SRI.SHYSON P. MANGUZHA, GOVT. PLEADER.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC : 6018 OF 2006

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF ISSUES FRAIMED IN OS.86/1995, SUB COURT, HOSDRUG.

EXT.P2 : TRUE COPY OF ORDER, DT.10.01.03, IN CRP 501/2000.

EXT.P3 : TRUE COPY OF PETITION DT.31.03.03 FILED BY THE PETITIONER BEFORE THE DISTRICT COLLECTOR, KASARAGOD.

EXT.P4 : TRUE COPY OF MEMO DT.27.5.05, FILED BY THE ADVOCATE COMMISSIONER.

EXT.P5 : TRUE COPY OF MEMO, DT.06.07.05, FILED BY THE PETITIONER.

EXT.P6 : TRUE COPY OF LETTER, DT.18.7.05 FILED BY THE PETITIONER.

EXT.P7 : TRUE COPY OF COUNTER DT.17.11.05 FILED BY THE PETITIONER.

EXT.P8 : TRUE COPY OF ORDER DT.4.1.06 IN OS NO.86 OF 1995, SUB COURT, HOSDRUG.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 6018 OF 2006

Dated this the 12th day of July, 2007

JUDGMENT

The District Collector, Kasaragod is impleaded suo motu as additional 3rd respondent. Registry will carry out corrections in the cause title. Government Pleader takes notice on behalf of the additional 3rd respondent.

2. Heard Sri.M.Gopikrishnan Nambiar, counsel for the petitioner and Sri.V.G.Arun, counsel for the party respondent. Heard the Government Pleader also on behalf of the 2nd respondent. Mr.Gopikrishnan submitted that pursuant to the interim order dt.01.03.06 the entire amount mentioned in Ext.P8 has been deposited by the petitioner. I do feel that the lethargic attitude of the Taluk Surveyor has been to a certain extent responsible for the delay in the matter of execution of commission work. Mr.Arun also would fairly submit that if the very same Taluk Surveyor is to conduct the measurement, the probabilities of the work being delayed further cannot be ruled out.

Under these circumstances, even as I approve the directions in Ext.P8 that the petitioner deposits a sum of Rs.29,177/- , I direct the court below to substitute the Taluk Surveyor by the Head Surveyor of the District. The additional 3rd respondent will issue appropriate

directions to the Head Surveyor of the District so that the Head Surveyor grants necessary assistance to the advocate commissioner so that the work in question can be expedited and completed within the shortest time frame possible. The Writ Petition is accordingly disposed of issuing the following directions:

The court below is directed to issue appropriate directions to the Commissioner and also to the Head Surveyor so as to ensure that the commission work is completely executed within the shortest possible time frame. The amount deposited will not be released till the Commission work is completed. It is open to the court below to take a decision as to the correct remuneration possible to the Head Surveyor after commission work is completed and plan is submitted before the court.

PIUS C. KURIAKOSE, JUDGE

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